



Information Technology Solution and Cloud Services Contract ELECT-221005-SVRS

between

The Department of Elections (ELECT)

and

The Canton Group

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1.

**INFORMATION TECHNOLOGY SOLUTION AND CLOUD SERVICES CONTRACT
TABLE OF CONTENTS**

1. PURPOSE AND SCOPE	1
2. DEFINITIONS	1
A. Acceptance	1
B. Application	1
C. Application User	1
D. Business Days	1
E. Claim	1
F. Code	1
G. Commonwealth	1
H. Commonwealth Indemnified Parties	1
I. Component	1
J. Computer Virus	1
K. Confidential Information	2
L. Content	2
M. Contract	2
N. Contractor	2
O. Customization	2
P. Deliverable	2
Q. Documentation	2
R. Effective Date	3
S. Federal Tax Information (“FTI”)	3
T. Licensed Services	3
U. Party	3
V. Requirements	3
W. Services	3
X. Solution	3
Y. Statement of Work (“SOW”)	3
Z. Subcontractor	3
AA. Supplier Affiliate	3
BB. Supplier Personnel	3
CC. Supplier Product	4
DD. SWaM	4
EE. Transition Out Plan	4
FF. Transition Period	4
GG. Update	4
HH. VITA	4
II. Web Site	4
3. TERM AND TERMINATION	4
A. Contract Term	4
B. Termination for Convenience	4
C. Termination for Breach	4
D. Termination for Non-Appropriation of Funds	5
E. Effect of Termination	5
F. Termination by Supplier	5
G. Transition of Services	5
H. Contract Kick-Off Meeting	6
I. Contract Closeout	6
4. SUPPLIER PERSONNEL	6
A. Selection and Management of Supplier Personnel	6
B. Key Personnel	6
C. Subcontractors	6
5. NEW TECHNOLOGY	7

A.	Access to New Technology	7
B.	New Services Offerings Not Available from Supplier	7
6.	GENERAL WARRANTY	7
A.	Ownership	7
B.	Coverage Period	7
C.	Performance Warranty	7
D.	Documentation and Deliverables	8
E.	Component Warranty	8
F.	Interoperability Warranty	8
G.	Licensed Services Application and Documentation	8
H.	Privacy and Security	8
I.	Access to Product and Passwords	9
J.	Operating System and Software Supportability	9
K.	Malicious Code	9
L.	Open Source	9
M.	Supplier Viability	9
N.	Supplier's Past Experience	9
7.	RESERVED.	9
8.	TESTING AND CURE PERIOD	9
A.	Licensed Services Commencement Date	9
B.	Documentation and Iterative Design and Development Deliverables Review and Application Testing Criteria	10
C.	Cure Period	10
9.	APPLICATION AND LICENSED SERVICES SUPPORT	11
A.	Coverage	12
B.	Service Levels	12
C.	Application Evolution	12
10.	SERVICE LEVELS, Reporting, AND REMEDIES FOR CLOUD SERVICES	12
A.	Performance Standards, Services Levels and Remedies	12
B.	Service Level Definitions.	12
C.	Provisioning	12
D.	Reporting	13
E.	Failure to Meet Service Level Commitments	13
F.	Escalation Procedures	13
11.	DESCRIPTION OF LICENSED SERVICES	14
12.	SUPPLIER RESPONSIBILITIES	14
A.	Standard Application Responsibilities	14
B.	Ancillary Responsibilities	16
C.	Subcontractors for Licensed Services	16
13.	ELECT RESPONSIBILITIES	16
14.	CONTENT PRIVACY AND SECURITY	16
15.	PROPRIETARY RIGHTS	19
A.	Supplier's Proprietary Rights	19
B.	ELECT Proprietary Rights	19
16.	Cloud Access in Lieu of Escrow AGREEMENT	20
17.	FEES, ORDERING, AND PAYMENT PROCEDURE	20
A.	Fees and Charges	20
B.	Supplier Quote and Request for Quote	20
C.	Ordering	21
D.	Statement of Work	21
E.	Invoice Procedures	21
F.	Purchase Payment Terms	21
G.	Reimbursement of Expenses	22

H.	Disputed Amounts	22
18.	REPORTING	22
A.	Small Business Procurement and Subcontracting Spend	22
19.	SUPPLIER PERFORMANCE MEASURES	23
20.	STEERING COMMITTEE	23
21.	TRAINING AND DOCUMENTATION	23
A.	Training	23
B.	Documentation	23
22.	COMPETITIVE PRICING	24
23.	CONFIDENTIALITY	24
A.	Treatment and Protection	24
B.	Return or Destruction	24
C.	Confidentiality Statement	24
D.	Freedom of Information Act Acknowledgement	24
24.	INDEMNIFICATION	24
A.	Indemnification Generally	24
B.	Defense Claims	25
C.	Duty to Replace or Reimburse	25
D.	Supplier Dispute of Obligation to Indemnify	25
25.	LIABILITY	25
A.	Supplier Liability	25
B.	Limitation of Liability	26
26.	INSURANCE	26
27.	SECURITY COMPLIANCE	26
28.	IMPORT/EXPORT	27
29.	THIRD PARTY TERMS AND CONDITIONS	27
30.	BANKRUPTCY	27
31.	GENERAL PROVISIONS	27
A.	Relationship Between ELECT and Supplier	27
B.	Licensing Within the Commonwealth	27
C.	Incorporated Contractual Provisions	27
D.	Compliance with the Federal Lobbying Act	28
E.	Ethics in Public Contracting	28
F.	Governing Law	28
G.	Dispute Resolution	28
H.	Assignment	29
I.	Severability	29
J.	Survival	29
K.	Force Majeure	29
L.	No Waiver	29
M.	Remedies	29
N.	Records and Right to Audit	29
O.	Taxes	30
P.	Currency	30
Q.	Advertising and Use of Proprietary Marks	30
R.	Notices	30
S.	Offers of Employment	30
T.	Contract Administration	30
U.	Captions	30
V.	Entire Contract	30
W.	Order of Precedence	31
X.	Counterparts and Electronic Signatures	31

INFORMATION TECHNOLOGY SOLUTION AND CLOUD SERVICES CONTRACT

THIS INFORMATION TECHNOLOGY Solution and Cloud Services CONTRACT (“**Contract**”) is entered into by and between The Department of Elections (“**ELECT**”), pursuant to § 2.2-2012 of the *Code of Virginia*, and The Canton Group (“**Supplier**”), an LLC headquartered at 2920 O’Donnell Street, Baltimore, MD 21224, to be effective on the date of final execution of the Contract by all parties (“**Effective Date**”).

1. PURPOSE AND SCOPE

This Contract sets forth the terms and conditions under which Supplier shall provide a Virginia Statewide Voter Registration System and Election Management System and related services to ELECT as more fully set forth under this Contract

2. DEFINITIONS

Capitalized terms used in this Contract have the meaning as provided (i) where each term is used in the Contract unless the term is (ii) set forth in this “Definitions” section below which lists the capitalized terms used in this Contract and provides a definition for the term.

A. Acceptance

The written acknowledgement by ELECT of successful delivery and performance by the Supplier of its contractual commitments, including completed and successful acceptance testing in conformance with the Requirements of the Contract.

B. Application

The software programs in object code and other related data, including intellectual data, proprietary information and Documentation contained in and applicable to Licensed Services hosted and supported by Supplier under the Contract, including any Updates, enhancements, and replacements to the Application.

C. Application User

Application User(s) include employees of ELECT, local election officials, independent contractors engaged by ELECT, and entities contracting with ELECT for services, as specified in the Contract. Application User(s) also include customers, suppliers, members of the general public, and other entities with whom ELECT may find it necessary or desirable to process or communicate electronically in pursuit of its business.

D. Business Days

Monday through Friday exclusive of Commonwealth holidays.

E. Claim

Any and all losses, damages, claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, assessments, fines, penalties (whether criminal or civil), judgments, settlements, expenses (including attorneys’ and accountants’ fees and disbursements), and costs. Collectively, “Claims”.

F. Code

The Code of Virginia, as in effect and amended from time-to-time.

G. Commonwealth

The Commonwealth of Virginia.

H. Commonwealth Indemnified Parties

The Commonwealth, public bodies of the Commonwealth and ELECT together with their respective officers, directors, agents, and employees.

I. Component

Any part or service of the Application, Licensed Services, Solution, or Deliverable delivered by Supplier under this Contract.

J. Computer Virus

Any malicious code, program, malware, or other internal component (e.g., computer virus, computer worm, computer time bomb, or similar component), which could damage, destroy, alter or disrupt any computer program, firmware, or hardware or which could, in any manner, reveal,

damage, destroy, alter or disrupt any data or other information accessed through or processed by such software in any manner.

K. Confidential Information

Non-public proprietary or trade secret information of ELECT or Supplier, whether the information is in written, graphic, machine readable or other tangible form, and which at the time of disclosure to any other Party is either (i) marked as being “Confidential” or “Proprietary”; (ii) Health Records; (iii) Personally Identifiable Information, including information about ELECT’s employees, contractors, and customers, or Sensitive Data, including PHI; or (iv) information that is protected by statute or other applicable law. In the case of ELECT, “Confidential Information” also includes any (a) information to which the Supplier has access in ELECT facilities or ELECT’s systems, (b) ELECT data, ELECT software, and systems access codes, and (c) information concerning ELECT’s operations, plans, employees, contractors or third party suppliers.

The term “Confidential Information” does not include information that is:

- i. in the public domain through no fault of the receiving Party or of any other person or entity that is similarly contractually or otherwise obligated;
- ii. obtained independently from a third-party without an obligation of confidentiality to the disclosing Party and without breach of this Contract;
- iii. developed independently by the receiving Party without reference to the Confidential Information of the other Party; or
- iv. required to be disclosed under The Virginia Freedom of Information Act (§§2.2-3700 et seq. of the Code of Virginia) or similar laws or pursuant to a court order.

L. Content

Any data, including the selection, arrangement and organization of such data, entered, uploaded to the Application, or otherwise provided to Supplier by ELECT or by any Application User; and any software and related documentation, from whatever source, provided by ELECT or Application User to Supplier in connection with this Contract.

M. Contract

This agreement, including all exhibits, schedules, and attachments, including any modifications or amendments thereto, entered into by ELECT and Supplier.

N. Contractor

The use of the term “Contractor” in any of the following terms, conditions, links, or IRS Publication 1075 means the same as the term “Supplier” as defined and used in this Contract.

O. Customization

Inventions, combinations, methods, formulae, techniques, processes, improvements, designs, computer programs, strategies, specific computer-related know-how, data and original works of authorship discovered, created or developed by Supplier for ELECT in the performance of this Contract.

P. Deliverable

Functionality, modules, Supplier Product, Documentation, Components, configuration and Customizations, plans, reports, data, and any other materials, items or events, in each case described or itemized as something that is developed, prepared or created and delivered or required to be developed, prepared or created and delivered or made available to ELECT as part of or in relation to the Application, Services, or Licensed Services.

Q. Documentation

Those materials (including user manuals, training materials, guides, product descriptions, technical manuals, product specifications, supporting materials and Updates) detailing the information and instructions needed in order to allow ELECT and its Application Users to make productive use of the Application, Services, Licensed Services or Deliverable, including any and all components, and to implement and develop self-sufficiency with regard to the Application, Services, Licensed Services or Deliverable, including any and all components, provided by Supplier in fulfilling its obligations under the Contract or Statement of Work issued under the Contract .

- R. Effective Date**
The date this Contract goes into full force and effect as set forth in the preamble of this Contract above.
- S. Federal Tax Information (“FTI”)**
FTI consists of federal tax returns and return information (and information derived from it) that is in the possession or control of ELECT, which is covered by the confidentiality protections of the Internal Revenue Code (“IRC”) and subject to the IRC § 6103(p)(4) safeguarding requirements including IRS oversight. FTI is categorized as “Sensitive” but “Unclassified” information and may contain personally identifiable information.
- T. Licensed Services**
The operation and maintenance of the Application including any Updates or Customizations, and the necessary operating system software, hardware, and utilities on Supplier’s host computer system; furnishing Supplier Product to Application users; storing Content; and making the Application, Content, and Supplier Product available to Application user(s) via the Web Site.
- U. Party**
Either Supplier or ELECT, unless collectively, which shall be termed “Parties.”.
- V. Requirements**
The functional, technical, performance, operational, compatibility, Acceptance testing criteria, and other parameters and characteristics of the Services, Application, Licensed Services, Solution and Deliverables, including any and all components, as provided in the Contract.
- W. Services**
Any work performed or service provided by Supplier – including the design and development of software and modifications, software updates, solution, products, implementation, installation, maintenance, support, testing, training, or other provision of service – in meeting the Requirements and fulfilling Supplier's obligations under the Contract or any order or Statement of Work issued under the Contract. “Services” includes all functions, responsibilities, activities, and tasks of the Supplier that are an inherent, necessary, or customary part of the Services, or are required for the proper performance or provision of the Services.
- X. Solution**
The Supplier’s contractually committed technical approach for solving an information technology business objective and associated Requirements as defined and authorized by the scope of the Contract or any order or Statement of Work issued under the Contract. Solution means all Supplier and Supplier’s third-party providers’ components making up the Solution, including but not limited to software, product, configuration design, implementation, Supplier-developed interfaces, and Services.
- Y. Statement of Work (“SOW”)**
Any document describing the Deliverables, due dates, assignment duration, Acceptance criteria, and payment obligations for a specific project, engagement, or assignment that the Supplier commits to provide to ELECT, which, upon signing by both Parties, is made a part of the Contract.
- Z. Subcontractor**
Any entity, including a Supplier Affiliate, to which Supplier (or other Subcontractor of any tier) has delegated or subcontracted the performance of any of the Supplier’s responsibilities under the Contract. For the avoidance of doubt, the term “Subcontractor” shall include any “1099-independent contractor,” which is an independent contractor who the Supplier pays to perform any of Supplier’s responsibilities under the Contract, and for whom Supplier is required to report such payment to the IRS, using a 1099-MISC form.
- AA. Supplier Affiliate**
Any entity that controls, is controlled by, or is under common control with Supplier.
- BB. Supplier Personnel**
Any and all of Supplier’s employees, agents, contractors, or Subcontractors performing any obligation or responsibility of Supplier under this Contract.

CC. Supplier Product

Supplier's proprietary reports, information, and data made available to ELECT as part of the Licensed Services.

DD. SWaM

Any entity certified by the Commonwealth's Department of Small Business and Supplier Diversity as a small, women-owned, minority-owned, or service disabled veteran-owned business, as defined in Code §§ 2.2-2000.1 and 2.2-4310, or a certified micro business as defined in Executive Order Number 35 (2019).

EE. Transition Out Plan

The written plan developed by Supplier addressing the transition of Supplier's contractual obligations, in whole or in part, away from the Supplier and to ELECT, or its designee, after the expiration or termination of the Contract.

FF. Transition Period

The period of time after the expiration or termination of the Contract that Supplier is obligated to continue providing assistance to ELECT so as to transition the Supplier's contractual obligations, or any portion thereof, to any other supplier.

GG. Update

Any update, modification, or new release of the Application, Documentation, or Supplier Product that Supplier makes generally available to its customers at no additional cost. Application Updates include patches, fixes, upgrades, enhancements, improvements, or access mode, including without limitation additional capabilities to or otherwise improve the functionality, increase the speed, efficiency, or base operation of the Application used to provide the Licensed Services.

HH. VITA

The Virginia Information Technologies, VITA, of the Commonwealth of Virginia pursuant to Chapter 20.1 (§§ 2.2-2005 et seq.) of the Code, or any successor Agency.

II. Web Site

The Internet site operated by Supplier to provide access to the Application, with the Uniform Resource Locator ("**URL**") SVRS.elections.virginia.gov or any successor URL(s).

3. TERM AND TERMINATION

A. Contract Term

This Contract is effective and legally binding as of the Effective Date. Unless terminated as provided for in this section, the Contract will be effective and legally binding for a period of one (1) year or through initial implementation and final Acceptance of the Supplier's Application and Solution as provided in the Contract, whichever is later ("**Initial Term**"). ELECT, in its sole discretion, may renew this Contract for up to ten (10) additional one (1) year renewal periods after the expiration of the Initial Term (collectively with the Initial Term, the "**Contract Term**").

ELECT will issue a written notification to the Supplier stating ELECT's intention to exercise a renewal period no less than 60 calendar days prior to the expiration of any current Contract Term. In addition, any performance required under the Contract, including under any SOW issued during the Contract Term, may survive the expiration of the Contract Term, in which case all contractual terms and conditions required for the completion of performance under the SOW shall also remain in full force and effect until all of Supplier's obligations pursuant to the SOW have met the final Acceptance criteria of ELECT specified in the Contract (or applicable SOW).

B. Termination for Convenience

During any renewal period of the Contract, ELECT may terminate this Contract, in whole or in part, at any time and for any reason upon not less than 60 calendar days prior written notice to Supplier. Any termination under this provision will not affect the rights and obligations attending any services outstanding at the termination date.

C. Termination for Breach

In the event of breach by the Supplier, ELECT will have the right to terminate this Contract, in whole or in part. Supplier will be deemed in breach if Supplier violates or fails to meet any

material obligation set forth in this Contract. Any termination under the provisions of this section will be deemed a "Termination for Breach".

If ELECT deems the Supplier to be in breach, ELECT shall provide Supplier with notice of breach and allow Supplier 10 business days to cure the breach. If Supplier fails to cure the breach as noted, ELECT may immediately terminate this Contract, in whole or in part. In addition, if Supplier is found by a court of competent jurisdiction to be in violation of or to have violated 31 U.S.C. § 1352, or if Supplier becomes a party excluded from Federal Procurement and Non-procurement Programs, ELECT may immediately terminate this Contract, in whole or in part, for breach, and ELECT shall provide written notice to Supplier of such termination. Supplier shall provide prompt written notice to ELECT if Supplier is charged with violation of 31 U.S.C. § 1352, or if federal debarment proceedings are instituted against Supplier.

D. Termination for Non-Appropriation of Funds

All payment obligations from public bodies under this Contract are subject to the availability of legislative appropriations at the federal, state, or local level for this purpose. In the event of non-appropriation of funds, irrespective of the source of funds, for the items under this Contract, ELECT may terminate this Contract, in whole or in part, for those goods or services for which funds have not been appropriated. Written notice will be provided to the Supplier as soon as possible after legislative action is completed.

E. Effect of Termination

Upon Termination, neither the Commonwealth nor ELECT, will have any future liability, except for Deliverables accepted by ELECT or Services (including any applicable Licensed Services and Maintenance Services), rendered by Supplier and accepted by ELECT prior to the termination date. In the event of termination before the end of the current Contract Term, the Supplier shall prorate the amount paid by the Commonwealth for the cost of the Licensed Services for the most recent renewal period into a monthly rate and refund the Commonwealth that monthly rate multiplied by the number of unused months remaining after the date of termination.

In the event of a Termination for Breach, Supplier shall accept return of any Deliverable that was not accepted by ELECT, and Supplier shall refund any monies paid by ELECT for the unaccepted Deliverable, including any amounts paid by ELECT for Licensed Services that are or will no longer be needed, as determined by at ELECT in its sole discretion, based on the unaccepted Deliverable.

F. Termination by Supplier

Under no circumstances shall Supplier have the right to terminate this Contract. Supplier's remedy for a breach is limited to the remedies set forth in Code § 2.2-4363 and Section 31.G. Dispute Resolution of this Contract.

G. Transition of Services

Within six (6) months of execution of the Contract, Supplier and ELECT will develop a written exit plan ("**Transition Out Plan**") detailing each Party's respective tasks for the orderly transition and migration of all Content stored by Supplier to ELECT's archive and/or to a system or application maintained by ELECT. The Supplier will maintain the Transition Out Plan throughout the Term, and update the Transition Out Plan as needed and subject to ELECT's approval.

At a minimum, the Transition Out Plan must provide that within 30 days of the expiration or termination of this Contract for any reason, Supplier shall return to ELECT all Content in its possession and stored by the Application on behalf of ELECT. Supplier shall return all such Content in a format accessible without the use of Supplier's Application. Supplier's failure to do so will constitute a material breach of this Contract and ELECT may exercise all available rights and remedies under law and equity, in addition to any remedies set forth in this Contract.

At the request of ELECT prior to or upon expiration or termination of this Contract, Supplier shall provide all assistance as ELECT may reasonably require to transition the Supplier's contractual obligations, or any portion thereof, to any other supplier with whom ELECT contracts for provision of same. This Transition Period obligation may extend beyond expiration or termination of the Contract for a period of time up to 24 months, as required and defined by ELECT.

If this Contract includes Supplier's provision of Licensed Services, Supplier shall take no action to restrict or terminate the use of such Licensed Services after the date of expiration or termination of the Contract or during any Transition Period, or both. In addition, at ELECT's option, Supplier

shall continue to provide Licensed Services for up to 24 months after the date of expiration or termination of the Contract in order to facilitate ELECT's transition to another service model or provider.

Supplier shall also provide such reasonable assistance as may be requested by ELECT and agrees such assistance will not be unreasonably withheld. Supplier will perform such assistance at the pricing in effect as provided in Exhibit B: Pricing at the time of the expiration or termination of the Contract. In the event of a termination for breach by Supplier, Supplier shall provide the transition assistance at no charge or fee to ELECT.

H. Contract Kick-Off Meeting

Within 30 calendar days of the Effective Date, Supplier may be required to attend a contract orientation meeting, along with ELECT contract manager/administrator, ELECT project manager(s) or authorized representative(s), and any other significant stakeholders who have a part in the successful performance of this Contract. The purpose of this meeting will be to review all contractual obligations for both parties, all administrative and reporting requirements, and to discuss any other relationship, responsibility, communication and performance criteria set forth in the Contract.

I. Contract Closeout

Prior to the Contract's expiration date, Supplier may be provided contract closeout documentation by ELECT to ensure Supplier has complied with providing all required Documentation, Content, written or recorded training materials, certifications, reports and any other outstanding Deliverables or Services required under this Contract, prior to the expiration of the Contract. If contract closeout documentation is provided, then Supplier shall complete, sign, and return to ELECT Supply Chain Management any required documentation within 30 calendar days of receipt to ensure completion of closeout administration and to maintain a positive performance reputation with the Commonwealth. Any required closeout documentation not received within 30 calendar days of Supplier's receipt of the Commonwealth's request will be documented in the contract file as Supplier non-compliance. Supplier's non-compliance may affect any pending payments due to the Supplier, including final payment, until the documentation is returned to ELECT.

4. SUPPLIER PERSONNEL

A. Selection and Management of Supplier Personnel

Supplier shall ensure that all Supplier Personnel performing under this Contract are competent and knowledgeable of the contractual arrangements between ELECT and Supplier. Supplier acknowledges that Supplier is the employer of all Supplier employees and shall have the sole responsibility to supervise, counsel, discipline, review, evaluate, set the pay rates of, provide (to the extent required by law) health care and other insurance and benefits for, and terminate the employment of Supplier employees. Supplier shall be solely responsible for the supervision and conduct of Supplier Personnel. Additionally, Supplier shall ensure that Supplier Personnel comply with the appropriate ELECT's site security, information security and personnel conduct rules, as well as applicable federal, state and local laws, including export regulations. ELECT reserves the right to require the immediate removal from ELECT's premises of any Supplier Personnel whom ELECT believes has failed to comply with the above or whose conduct or behavior is unacceptable or unprofessional or results in a security or safety breach.

B. Key Personnel

ELECT may designate certain of Supplier's personnel as "Key Personnel" or "Project Managers". Supplier's obligations with respect to Key Personnel and Project Managers will be described in the Contract. Any changes to Key Personnel must be mutually agreed to in writing by Supplier and ELECT. Failure of Supplier to perform in accordance with such obligations may be deemed a breach of this Contract.

C. Subcontractors

Supplier shall not use Subcontractors to perform its contractual obligations unless specifically authorized in writing to do so by ELECT. Notwithstanding the foregoing, ELECT shall not have to approve in advance any 1099-independent contractors (as defined herein) engaged by Supplier. Supplier's engagement and use of its Subcontractors Provista and Penacity are hereby

authorized by ELECT. If this Contract is supported in whole or in part with federal funds, Supplier may not subcontract to any Subcontractor that is a party excluded from Federal Procurement and Non-procurement Programs. In no event may Supplier subcontract to any Subcontractor that is debarred by the Commonwealth or that owes back taxes to the Commonwealth and has not made arrangements with the Commonwealth for payment of such back taxes.

If Supplier subcontracts the provision of any performance obligation under this Contract to any other party, Supplier shall (i) act as prime contractor and will be the sole point of contact with regard to all obligations under this Contract; and (ii) represent and warrant that any authorized Subcontractors shall perform in accordance with the same performance terms and warranties as those set forth in this Contract for Supplier.

5. NEW TECHNOLOGY

A. Access to New Technology

Supplier will bring to ELECT's attention any new products or services within the scope of the Contract that Supplier believes will be of interest to ELECT and will work to develop proposals for the provision of any such products or services as ELECT requests.

B. New Services Offerings Not Available from Supplier

If new or replacement product or service offerings become available and cannot be competitively provided by the Supplier under the scope of this Contract, ELECT will have the right to purchase the new or replacement products or services from a third party. If ELECT elects to use such new or replacement product or service offerings, Supplier will reasonably assist ELECT to migrate to such products or services.

If ELECT elects to acquire new products or services as described in the paragraph above and such services replace existing Supplier-provided services, discount tiers and any commitments (as applicable per the Contract) will be reduced to reflect reductions in purchases of the replaced products or services.

6. GENERAL WARRANTY

THE OBLIGATIONS OF SUPPLIER UNDER THIS GENERAL WARRANTY SECTION ARE MATERIAL.

Supplier warrants and represents to ELECT that Supplier will fulfill its contractual obligations and meet all needed Requirements as described in Exhibit A. Supplier warrants and represents to ELECT that:

A. Ownership

Supplier has the right to perform and provide all contractual obligations and provide all needed services or products without violating or infringing any law, rule, regulation, copyright, patent, trade secret, or other proprietary right of any third party.

B. Coverage Period

During the Warranty Period of 60 days from the date the Application goes live, Supplier warrants that the Application and any Deliverables provided by Supplier under this Contract will meet or exceed the Requirements. Supplier shall correct, at no additional cost to ELECT, all errors identified during the warranty period that result in Supplier's failure to meet the Requirements or Supplier's contractual obligations.

C. Performance Warranty

With respect to Supplier's performance under this Contract:

i. Supplier shall perform all contractual obligations with the care, skill and diligence, consistent with or above applicable professional standards currently recognized in Supplier's profession, and Supplier shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all plans, information, specifications, Deliverables, and Services furnished under this Contract; and

ii. Supplier shall ensure that any contractually-obligated Services or Deliverables, or both, meet or exceed the Requirements and that any Supplier Product will function in conformance with the Requirements.

D. Documentation and Deliverables

- i. Any required Documentation Supplier is obligated to provide under this Contract will be sufficient in detail and content to allow an appropriately trained user/programmer to understand and fully utilize, as applicable, the Deliverables without reference to any other materials or information.
- ii. All Deliverables provided or delivered pursuant to this Contract are at the current release level.
- iii. No Update, engineering change, or revision made to any Supplier-provided Deliverables will (a) degrade the performance of any Deliverable or its components to a level below that defined in the Requirements; (b) cause any other warranty to be breached; or (c) require ELECT to acquire additional hardware equipment or software.

E. Component Warranty

For any Component, the applicable warranty period shall be the period from written acceptance of the Component until final acceptance of the Solution.

F. Interoperability Warranty

Supplier warrants that each Component, regardless of the origin of the Component, delivered under this Contract shall be interoperable with other Components so as to meet or exceed the performance specified in the Requirements.

G. Licensed Services Application and Documentation

Supplier warrants the following with respect to the Licensed Services and the Application:

- i). The Application is being provided pursuant to a particular Request for Proposal ("RFP"), and therefore such Application shall be fit for the particular purposes specified by ELECT in the RFP and in this Contract. Supplier is possessed of superior knowledge with respect to the Application and is aware that ELECT are is relying on Supplier's skill and judgment in providing the Licensed Services, including the Application.
- ii). Supplier represents and warrants (i) that it shall perform the Licensed Services in conformity to all specifications and Requirements set forth in the Contract, including but not limited to those listed in Exhibit A, in a professional and workmanlike manner and (ii) that the Licensed Services shall not infringe any third party proprietary rights including (without limitation) any trademark, trade name, trade secret, copyright, moral rights, patents or similar intellectual property rights.
- iii). Supplier warrants that the Application and Licensed Services will conform in all material respects to the Requirements set forth in this Contract. Supplier warrants that the Application and Licensed Services will conform to the applicable specifications and Documentation. Supplier also warrants that the Application and Licensed Services are compatible with and will operate successfully when used on the equipment in accordance with the Documentation and all of the terms and conditions therein.
- iv). The Application provided hereunder is at the current release level;
- v). No corrections, work arounds or future Application releases provided by Supplier shall degrade the Application, cause any other warranty to be breached, or require ELECT to acquire additional hardware equipment or software, or licensed services;
- vi). Supplier warrants that all post-Acceptance Updates, changes, alterations or modifications to the Application, Licensed Services and Documentation by Supplier will be compatible with, and will not materially diminish the features or functionality of the Application, Licensed Services and/or Supplier Product when used in accordance with the Documentation and all of the terms and conditions therein.
- vii). Supplier warrants that the Documentation and all modifications or amendments thereto which Supplier is required to provide under this Contract shall be sufficient in detail and content to allow a user to understand and utilize fully the Application without reference to any other materials or information.

H. Privacy and Security

Supplier warrants that Supplier and its employees, Subcontractors, partners and third party providers have taken all necessary and reasonable measures to ensure that the Application, Licensed Services, Supplier Product, and any related Deliverables do not include any

degradation, known security vulnerabilities, or breach of privacy or security of Content. Supplier agrees to notify ELECT of any Application degradation, known security vulnerabilities, or breach of privacy or security of Content as soon as possible after discovery and to provide ELECT with fixes or upgrades for security vulnerabilities within 30 days of discovery.

I. Access to Product and Passwords

Supplier warrants that the Application and Licensed Services do not contain disabling code or any program device or other undisclosed feature, including but not limited to, viruses, worms, trojan horses, or other code which is designed to permit unauthorized access, delete, disable, deactivate, interfere with or otherwise harm the Application, Licensed Services or the hardware or software of ELECT or its Application Users. In addition, Supplier warrants that ELECT and its Application Users will be provided commercially reasonable uninterrupted access to the Application. Supplier also warrants that it will not cancel or otherwise terminate access to the Application by disabling passwords, keys or tokens that enable continuous use of the Application by ELECT and its Application Users during the Contract Term. Supplier further warrants that the Application and Licensed Services are compatible with and will operate successfully.

J. Operating System and Software Supportability

Supplier warrants that Supplier and its employees, subcontractors, partners and third party providers have taken all available necessary and reasonable measures to ensure that the Application, Licensed Services, Supplier Product, and any Deliverables do not have dependencies on other operating systems or software that are no longer supported by Supplier, or its Subcontractors, partners and third-party providers.

K. Malicious Code

Supplier has used commercially reasonable efforts through quality assurance procedures to verify that there are no Computer Viruses or undocumented features in any of the Deliverables, as obligated and provided by Supplier, at the time of delivery to ELECT. Supplier has used the best available means to scan any media provided to ELECT. Supplier warrants that the Deliverables, as obligated and provided by Supplier, do not contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent ELECT use of the Deliverables. Notwithstanding any rights granted under this Contract or at law, Supplier waives, under any and all circumstances, any right it has or may have in the future to exercise its license termination rights, or termination of the Licensed Services, by electronic means. Supplier agrees that ELECT may pursue all remedies provided under law in the event of a breach or threatened breach of this section, including injunctive or other equitable relief.

L. Open Source

Supplier will notify ELECT if any Deliverables, as obligated and provided by Supplier, contain any Open Source code and identify the specific Open Source License that applies to any embedded code dependent on Open Source code, provided by Supplier under this Contract.

M. Supplier Viability

Supplier has the financial capacity to perform and continue to perform its obligations under this Contract. Supplier has no constructive or actual knowledge of a potential legal proceeding being brought against Supplier that could materially adversely affect performance of this Contract. Further, Supplier is not prohibited by any contract, or order by any court of competent jurisdiction, from entering into this Contract.

N. Supplier's Past Experience

Supplier has met similar contractual obligations and fulfilled the Requirements as set forth in this Contract, in similar or greater complexity, for other customers without significant problems due to Supplier's performance and without causing a contractual breach or default claim by any customer.

7. RESERVED.

8. TESTING AND CURE PERIOD

A. Licensed Services Commencement Date

The Supplier shall begin delivery of Licensed Services on the date requested by ELECT and agreed to by the Supplier in the Contract. ELECT may delay the Licensed Services

commencement date by notifying the Supplier at least ten (10) days before the scheduled Licensed Services commencement date.

B. Documentation and Iterative Design and Development Deliverables Review and Application Testing Criteria

1. Documentation and iterative design and development Deliverables Review –ELECT agrees to review any Documentation and Iterative design and development Deliverables within 10 Business Days of delivery of the applicable Documentation and iterative design and development Deliverables. ELECT will deliver to Supplier a written notice that ELECT accepts or rejects the Documentation or Iterative design and development Deliverables. If ELECT has not provided a written notice within five (5) Business Days following the end of the review period Supplier may escalate for a decision through applicable dispute resolution processes.

Supplier will provide a full demonstration, as applicable, for Iterative design and development Deliverables, including documentation, Supplier test procedures and scripts, testing results, defect records and logs and any other information helpful to ELECT for its review, which review may include testing. Supplier shall ensure that each individual iterative design and development Deliverable functions properly and integrates with previously delivered Deliverables as applicable to meet the requirements of the Contract.

2. Application Testing -With respect to the Supplier providing access to and operation of the Application in accordance with the Requirements (as part of the Licensed Services), ELECT agrees to complete testing of ELECT’s ability to access and properly use the Application within 20 Business Days after: 1) ELECT receiving written notice from Supplier of the ability of ELECT and its Application Users to access and test the Application; and 2) ELECT confirming in writing that both ELECT and the Application Users have actual access to the Application, unless otherwise specified in an SOW.
3. At the end of the testing period, ELECT will deliver to Supplier a written notice that ELECT accepts or rejects the Application. If ELECT has not provided a written response to testing within five (5) Business Days following the end of the testing period, Supplier may escalate for decision through applicable dispute resolution processes. Supplier agrees to provide to ELECT such assistance and advice as ELECT may reasonably require, at no additional cost, during such testing.

C. Cure Period

1. Documentation. Supplier shall correct any and all non-conformities identified during review and re-submit the non-conforming Documentation Deliverable for further review within five (5) Business Days of Supplier’s receipt of written notice of non-conformance. Should Supplier fail to cure the non-conformity or deliver Documentation Deliverable, which meets the Requirements, the Application User may, in its sole discretion:
 - i. reject the Documentation Deliverable in its entirety, and any Licensed Services or Service rendered unusable due to the non-conforming Documentation Deliverable and recover amounts previously paid to Supplier for all such Services or Licensed Services;
 - ii. issue a “partial Acceptance” of the Documentation Deliverable with an equitable adjustment in the price to account for such deficiency; or
 - iii. conditionally accept the applicable Documentation Deliverable while reserving its right to revoke Acceptance if Supplier fails to make a timely correction.
2. Iterative design and development Deliverables. Supplier shall correct any non-conformities identified in testing of any iterative design and development Deliverables within the next scheduled sprint cycle. When Supplier fails to cure the non-conformity of an iterative design and development Deliverables within the next schedule sprint cycle ELECT may, in its sole discretion:
 - i. reject the iterative design and development Deliverables in its entirety, and any Licensed Services or Service rendered unusable due to the non-conforming iterative design and development Deliverables, and recover amounts previously paid to Supplier for all such Services or Licensed Services;
 - ii. issue a “partial Acceptance” of the Iterative design and development Deliverables with an equitable adjustment in the price to account for such deficiency; or

iii. conditionally accept the applicable iterative design and development Deliverables while reserving its right to revoke Acceptance if Supplier fails to make a timely correction.

Failure of Documentation or an iterative design and development Deliverables to meet, in all material respects, the Requirements after the second review period or second sprint cycle testing shall constitute a breach by Supplier.

3. User Testing. With respect to Acceptance Testing, if after the initial testing period has begun, as set forth in Section 8. B. above, and if at any time during the testing period ELECT identifies defects in the required licensed functionalities of the Application, ELECT notifies the Supplier with detailed information of the defect, ELECT in consultation with Supplier, assigns severity to the defect. Defect severity is defined as follows:

a. Critical

- i. Prevents the accomplishment of an essential function. Essential function is defined as critical functionality at the time when it is needed for execution.
- ii. Jeopardizes safety, security, or causes unrecoverable data loss.
- iii. No work around solution is known.

b. High

- i. Adversely affects the accomplishment of an essential function and no known work-around solution.
- ii. Causes recoverable data loss but with high impact to users.
- iii. Impacts reliability of public-facing functionality or data.

c. Medium

- i. Adversely affects the accomplishment of an essential function, and a workaround solution is known.
- ii. Causes recoverable data loss.

d. Low

- i. Results in user/operator inconvenience or annoyance but does not affect a required operation or mission essential function.
- ii. Cosmetic or documentation issue to non-public facing functionality.

Supplier shall resolve Critical and High severity defects, provide to and maintain for ELECT and ELECT's Application Users the required access, within five (5) Business Days of written notice of ELECT's and/or its Application Users' inability to access the licensed essential functionalities of the Application.

Should Supplier fail to provide and maintain access to the required licensed functionalities of the Application when requested, ELECT may, in its sole discretion: (i) reject the Application and Licensed Services in their entirety; (ii) issue a "partial Acceptance" of the Application and Licensed Services; or (iii) conditionally accept the applicable Application and Licensed Services subject to Supplier curing the non-compliance within 5 business days.

If ELECT and its Application Users determine Critical and High severity defects remain unresolved, or, the Supplier has not provided a mutually agreeable resolution plan for Medium and Low severity defects on the required licensed functionalities as set forth in the Requirements for the Application after a second set of acceptance tests, or both, Supplier shall be deemed in default of the Contract. In the event of such default, ELECT may, at its sole discretion, terminate the Contract, in whole or in part, for the Licensed Services to be provided thereunder by Supplier.

9. APPLICATION AND LICENSED SERVICES SUPPORT

Supplier shall provide the following Application Services (including unlimited telephonic support and labor) without additional charge to ELECT in order to ensure ELECT and its Application Users are able to access and use the Application in accordance with the Requirements.

A. Coverage

Supplier shall provide to ELECT all reasonably necessary telephone or written consultation requested by ELECT in connection with use, problems and operation of the Application on a basis of 24 hours per day, seven (7) days a week.

B. Service Levels

Supplier shall respond to and resolve requests from ELECT or VITA, in its governance role, for support of Licensed Services regarding the Application and Licensed Services, including Application, Supplier Product, and Documentation in accordance with the requirements in Exhibit J: Service Level Agreements of the Contract, "Service Level Agreements or "SLAs". ELECT may describe the problem by telephone, electronic mail, or via a web site provided by Supplier. Supplier shall use all available tools, resources, and its best efforts to meet the performance standards response times and resolution times and other obligations under this Contract.

C. Application Evolution

Should Supplier merge or splinter the Application previously provided to ELECT, such action on the part of Supplier shall not in any way result in ELECT being charged additional license or support fees in order to access the Application, to enable its Application Users to access the Application, or to receive enhancements, releases, upgrades or support for the Application.

10. SERVICE LEVELS, REPORTING, AND REMEDIES FOR CLOUD SERVICES

A. Performance Standards, Services Levels and Remedies

Exhibit J: "ELECT Service Level Agreements" provides for the performance standards, measurements, measurement periods, and remedies for availability, failover, incident response and resolution, standard maintenance, operational use, access removal, provisioning, software modifications and release management, vulnerabilities, licensed services reporting, and content privacy and security.

In the event a service level default occurs after ELECT has given notice of termination pursuant to the Term and Termination section of this Contract or due to non-appropriation of funds, and ELECT has made final payment to Supplier for the Application and Licensed Services and no further invoices will issue as a result, Supplier shall refund to ELECT the amount of the appropriate Service Level Credit due for the period of default.

B. Service Level Definitions.

Availability

"Available" means that ELECT and its Application Users are able to access and use all features and functions of the Application and Licensed Services required by ELECT, including but not limited to the required features of the Application and Supplier Product.

Excusable Downtime

"Excusable Downtime" is defined as that period of time when the Licensed Services are not available to ELECT or its Application Users due to scheduled network, hardware or service maintenance and/or upgrades. Excusable Downtime shall not include (a) an electronic hardware failure; (b) a failure in the Supplier's Application; (c) an electric utility failure at Supplier's facility where the Application is hosted; or (d) a network failure up to, but not including, the interconnection point of Supplier's network to the public switched telephone network

Uptime

"Uptime" means that the Application and Licensed Services are accessible by ELECT and its Application Users twenty-four (24) hours a day, seven (7) days a week, less Excusable Downtime.

C. Provisioning

ELECT will have the ability to add and terminate access for ELECT and ELECT's Application Users. When ELECT's ability to do so is not available, Supplier will add and terminate access for ELECT and ELECT's Application Users in accordance with the requirement of Exhibit J Service Level Agreement.

D. Reporting

(i) Monthly Reports:

By the 5th of each calendar month during the post implementation Contract Term, Supplier shall provide ELECT with the following written monthly reports:

(a) Service Level Performance Report - a report that contains information with respect to the performance of the Application and Licensed Services. Such report, unless otherwise agreed upon by the parties, shall be in conformity with the reporting Supplier provides to its other customers utilizing an application and licensed services identical or similar to the Application and Licensed Services provided to ELECT.

(b) System/Application Patching Compliance Report – a report that illustrates that the supplier has installed security relevant software and firmware updates within 30 days of the release of the updates.

(c) Scanning Reports (OS, Middleware, Applications and Interfaces) Report – a report that illustrates vulnerability scanning of Cloud Service Providers Operating Systems/infrastructure, databases and web applications (d) Geographic Locations of Data Being Hosted Report – a report that illustrates the location of Commonwealth data

(d) Provisioning Reports – a report that documents the incremental adds, access authorization moves or reductions, including disabled access updates, completed by the Supplier.

(ii) Quarterly Reports:

By the 5th day of the first month of a calendar quarter, during the Contract Term, Supplier shall provide ELECT with the following written quarterly report

(a) Summary Report of Intrusion Detection Scans and Intrusion Prevention Scans – a report that demonstrates that supplier protects Commonwealth data with intrusion monitoring tools from unauthorized access, modification and deletion.

Supplier shall submit a copy of each report to VITA at: enterpriseservices@vita.virginia.gov.

Representatives of Supplier and ELECT, and VITA at its option, shall meet as often as may be reasonably requested by either party, but no less often than once each calendar quarter during the Contract Term, to review Supplier's performance of Licensed Services and the performance of the Application and to discuss technical plans, financial matters, system performance, service levels and any other matters related to the above required reports and to this Contract in general that may be reasonably requested by either Supplier, ELECT, or VITA. Supplier shall notify VITA of such meetings by email to: enterpriseservices@vita.virginia.gov. ELECT or VITA may independently audit the report at ELECT'S or VITA'S expense no more than two (2) times annually.

E. Failure to Meet Service Level Commitments

In the event that Supplier fails to meet the Service Levels specified herein, in addition to any service level credits required to be issued to ELECT, as provided in Exhibit J, Supplier will: (i) promptly replace the Application with an Application that conforms to this Contract and such specifications; or (ii) repair the Application, at Supplier's expense, so that it conforms to this Contract and such specifications. In the event Supplier fails to comply with these remedies, ELECT may exercise all available rights and remedies under law and equity.

F. Escalation Procedures

Step 1: Informal discussion with Project Manager

If ELECT is comfortable, ELECT's concerns should first be discussed with the Project Manager. The Project Manager will try to resolve the problem. Many concerns can be resolved informally when a customer and the Project Manager take time to review the concern and discuss options to address the issue.

If the complaint relates to the Project Manager, ELECT should bring the concerns to the Engagement Director. ELECT is always able to bring any concern directly to the Engagement Director and bypass the Project Manager.

Step 2: Written complaint to Engagement Director

If ELECT is not comfortable discussing the concerns with the Project Manager, one is not assigned, or ELECT is not satisfied with the results of the information discussion in Step 1, ELECT may submit a written complaint using the Complaint Form, provided by the Supplier, within five business days to the Engagement Director to include:

- The nature of the complaint
- Detailed information related to the situation
- The remedy or outcome desired

The Engagement Director will have five business days to respond to ELECT in writing.

The complaint form can be obtained from the Project Manager or Engagement Director, as well as obtained in the Product Information Library (PIL), access to which will be provided by the Supplier.

Step 3: Written complaint to Executive Leadership

If ELECT is not satisfied with the response from the Engagement Director, ELECT may submit a written complaint using the Complaint Form to The Canton Group Executive Leadership (CEO, COO, Director of Client Delivery) for review. If ELECT would like, they are always able to bring any concern directly to the Executive Leadership team, bypassing the Engagement Director.

All complaints should also be sent to VA Support vasupport@cantongroup.com. The request for review should include:

- An explanation of the complaint and details of all previous efforts to resolve the issue.
- A copy of the written complaint submitted to the Project Manager and/or Engagement Director.
- A copy of the Project Manager and/or Engagement Director's response to ELECT's complaint.
- Detailed information regarding ELECT's dissatisfaction with the Project Manager and/or Engagement Director's response.

Executive Leadership will consult with the Project Manager, Engagement Director, and any other relevant parties to evaluate the complaint and provide a written response to ELECT within five business days. The outcome of the review by The Canton Group Executive Leadership will be the last step in the Escalation Procedures.

11. DESCRIPTION OF LICENSED SERVICES

During the term of this Contract, Supplier hereby agrees to host the Application(s) listed and described in Exhibit A: Requirements to the Contract, and on servers owned, operated, housed, and maintained by Supplier and shall make such Application(s) available to ELECT and its designated Application Users through the Internet. Supplier has acquired any and all license rights in the Application(s) necessary and appropriate for Supplier to provide the Licensed Services as listed and described in Exhibit A: Requirements to the Contract for ELECT. Supplier hereby grants ELECT and its Application Users a non-exclusive, transferable, worldwide license to access and use by any method the Application(s) during the term of this Contract. The license fee for the rights shall be as set forth in Exhibit B: Pricing, and shall apply regardless of access mode. The license shall be held as specified in Section 31. B (Licensing by the Commonwealth). Any other provision or other unilateral license terms which may be issued by Supplier after the effective date of this Contract, including any such other agreement that may be presented to ELECT or its Application Users at the time of accessing the Application(s) ("**click wrap**"), shall have no legal effect.

12. SUPPLIER RESPONSIBILITIES

A. Standard Application Responsibilities

Supplier shall acquire and maintain, at no charge to ELECT, the hardware and software required to host the Application(s). The hardware and software on which the Application(s) is hosted will be maintained in good operating condition, consistent with or exceeding generally accepted industry practices and procedures. Additionally:

i. Supplier shall maintain sufficient hardware capacity, bandwidth and other necessary capacity to satisfy the technical requirements indicated in Exhibit A: Requirements or elsewhere in the Contract.

ii. Supplier shall be responsible for all telecommunication connections from the server hosting the Application to the Internet.

iii. Supplier may collect user-specific data only as necessary to provide the Licensed Services ordered by ELECT. No information regarding ELECT or any Application User shall be disclosed, provided, rented or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation will extend beyond the Contract Term.

iv. The Application, and all the Components thereof, will be made available to ELECT and Application Users, as specified in the Exhibit J: Service Level Agreements. Except in cases of emergency, ELECT shall be provided a two (2) business day advance notification of such maintenance and/or upgrade. In cases of emergency, Supplier will use its best efforts to notify ELECT of a planned Downtime as soon as practicable. Maintenance or upgrades are not to exceed thirty-six (36) hours in duration in a single month and cannot occur Monday through Friday, between the hours of 6:00 a.m. and 8:00 p.m. Eastern Time.

v. Supplier shall be required to notify ELECT in writing at least sixty (60) prior to of any planned change(s) or Update(s) to the Application; its functionality; Content storage/ backup/disaster recovery, including physical location; security architecture, features or settings; terminations and/or replacement of any Supplier subcontractor when such changes are not routine or minor, or when such changes have the potential to materially impact the secure and efficient use of the Application, as understood and agreed to between Supplier and ELECT at Contract award. The purpose of this notice is to allow sufficient time for Supplier and ELECT to discuss any technical/functional considerations and/or changes that would require action by the Commonwealth e.g. the proposed use of a new cloud provider, which would require an ECOS assessment, or an Update that would require the loss of use of functionality during a primary or election event.

vi. Supplier is responsible for documenting and maintaining any Customizations made for operational use of the Application and/or for interoperability use with other systems or applications used by ELECT and paid for solely by ELECT. The associated technical data, code, documentation and other necessary information about such Customizations shall be provided by Supplier to ELECT within five (5) business days of the Customizations' operational use. Supplier shall be required to routinely transfer knowledge regarding the Application and Licensed Services, including Updates and all material changes, to ELECT in a reasonable manner to ensure proper and efficient use of Application and Licensed Services without degrading performance thereof.

vii. Supplier agrees to work with ELECT to ensure compliance with any approved security exceptions or other identified gaps or requirements provided to Supplier in writing by ELECT.

viii. Supplier further agrees to comply with the following contractual requirements:

- A SOC 2, Type I or a security gap analysis, using SEC 525 as the framework, conducted by an accredited third party must be completed within 90 days and results provided to VITA within 135 days of award. A SOC 2, Type 2 assessment must be completed no later than 12 months from expiration of the SOC 2, Type 1.
- Application must be configured to meet SEC 525 AC-2; integration with SSO Solution prior to project onset.

In addition, and at no additional cost to ELECT, Supplier shall provide access to additional Updates, features, and functionalities of the Application as are provided by Supplier to other customers of Supplier, to the extent allowable under contract or law, who require functionality similar to that of the Application provided to ELECT. All such additional features and functionality, where reasonably necessary, shall be accompanied by updated Documentation, whether in hard copy format or distributed electronically via email or the Supplier website. Notwithstanding the provisions of this Section and except as agreed to in writing by ELECT and Supplier, nothing in

the Contract shall oblige Supplier to undertake any modifications to the Application, and all such modifications are at Supplier's sole discretion whether suggested by ELECT or another party.

B. Ancillary Responsibilities

Throughout the Contract Term, Supplier shall make available such resources, including Supplier Personnel, as are reasonably required to: (i) train designated ELECT personnel in the use of the Application; (ii) develop modifications to the Application as agreed by ELECT and Supplier in any exhibit hereto or as agreed to by Supplier and ELECT; and (iii) otherwise support the Application as provided under this Contract and any exhibits hereto.

C. Subcontractors for Licensed Services

It is understood that Supplier may utilize subcontractors to provide integral components of the Licensed Services and Application; however, except for those so named at time of Contract award, Supplier shall not use new or replacement subcontractors to perform or provide integral components of the Licensed Services or Application during performance of this Contract without advance written notification to and approval by ELECT.

Supplier is responsible for the performance of its subcontractors used in providing any portion of the Licensed Services or Application. Additionally, Supplier is responsible for its subcontractors' compliance with the terms and conditions of this Contract.

13. ELECT RESPONSIBILITIES

Unless otherwise agreed and as applicable, ELECT and its Application Users, will be responsible for the input of their Content into Supplier's Application and ELECT and its Application Users will be responsible for keeping said Content current and accurate. Supplier will have no responsibility for assisting ELECT in creating, modifying or inputting the Content, unless specified in Exhibit A: Requirements.

If Supplier issues unique USERIDs and passwords to an Application User:

- a). ELECT is responsible for protecting said passwords and for any authorized and unauthorized use made of the passwords. ELECT will fully cooperate with law enforcement authorities in the detection and prosecution of illegal activity related to unauthorized use of the Licensed Services.
- b). ELECT shall have the right to add, activate, change access for, or disable USERIDs at its sole discretion. ELECT shall designate Administrators who will be authorized to add, activate, change access for or disable USERIDs.
- c). Upon notification by ELECT of an Application User's disabled access, Supplier shall remove access authorization by said Application User from its server within one (1) hour of receipt of such notification, ensuring that historical access audit details of such Application User shall not be deleted or lost. If Supplier fails to make such a removal of access, ELECT shall not be held liable for any charges or damages incurred due to use of the Application UserIDs.
- d). ELECT agrees to notify Supplier of any degradation, potential breach, or breach of the Content and Application privacy or security as soon as possible after discovery. ELECT further agrees to provide Supplier the opportunity to participate in the investigation of the reported situation.
- e). ELECT agrees to submit any required Security exceptions to commonwealthsecurity@vita.virginia.gov within five (5) days of ELECT notification to VITA.

14. CONTENT PRIVACY AND SECURITY

Supplier shall provide a secure environment for Content and any hardware and software, including servers, network and data components provided by Supplier as part of its performance under this Contract. Supplier shall provide a secure environment for Content and any hardware and software in accordance with VITA's Security Standards located at: <https://www.vita.virginia.gov/it-governance/itrm-policies-standards/> in order to prevent unauthorized access to and use or modification of, and to protect, the Application and Content. Supplier agrees that all Content of ELECT is intended solely for the business of ELECT and is considered private data. Therefore, Supplier shall, at a minimum, implement the following procedures designed to protect the privacy and security of Content:

- i. User identification and access controls designed to limit access to Content to Application Users in accordance with the principles of least privilege.
- ii. Supplier shall ensure that all personnel with physical or logical access to Content will receive industry standard annual security awareness training and all other training as required by Content owner, Commonwealth security standards, regulation, or law.
- iii. Supplier shall ensure that the Application and/or Licensed Services are capable of auditing the following events. Successful and unsuccessful account logon events, account management events, object access, policy change, privilege functions, process tracking, and system events.
- iv. Supplier shall ensure that the Application and/or Licensed Services are capable of auditing the following events, for Web applications. All administrator activity, authentication checks, authorization checks, data deletions, data access, data changes, and permission changes.
- v. Supplier shall ensure that the Application and/or Licensed Services employs automated mechanisms to centrally review, analyze and correlate audit and log records from multiple components of the Application and/or Licensed Services to support organizational processes for investigation, alerting and response to suspicious activities.
- vi. Supplier shall ensure that the Application and/or Licensed Services support exporting of log files to the Commonwealth for review and analysis.
- vii. Supplier shall ensure that the Application and/or Licensed Services are capable of maintaining all audit records in accordance with Commonwealth record retention policies found at the following URL. <http://www.lva.virginia.gov/agencies/records/>
- viii. Provide evidence of a comprehensive continuous monitoring program encompassing all systems with access to Content.
- ix. Provide evidence that the Application and/or Licensed Services adhere to a security baseline, which is based on least functionality.
- x. Supplier shall ensure that all changes to proposed Application and/or Licensed Services are authorized according to change management policies.
- xi. Supplier agrees to maintain all metadata associated with any original Content submitted into the Application and Licensed Services by ELECT for easy retrieval and access, using secure industry standard protocols, within a predefined period as specified by ELECT in the Contract..
- xii. Supplier agrees to provide a secure method of exporting Content when requested.
- xiii. Supplier shall ensure that the Content exported from the supplier's Application or infrastructure is in an industry standard format that provides for interoperability and portability.
- xiv. Supplier shall ensure that the Application and/or Licensed Services provides and maintain a backup of Content that can be recovered in an orderly and timely manner within a predefined frequency consistent with recovery time and recovery point objectives, as specified in this Contract.
- xv. Supplier shall ensure that the Application and/or Licensed Services can store a backup of Content, at least daily, in an off-site "hardened" facility, located within the continental United States, maintaining the security of the Content.
- xvi. Implement a contingency plan designed to maintain the access to the Application and Licensed Services and to prevent the unintended destruction or loss of Content. This plan should provide a predefined frequency, consistent with recovery time and recovery point objectives, as specified in the Contract, for disaster recovery and archival purposes of Content at a secure facility located within the continental United States.
- xvii. Supplier shall partition, in aggregate for this contract, all Content submitted into the Application and/or Licensed Services by ELECT in such a manner that it will not be impacted or forfeited due to E-discovery, search and seizure or other actions by third parties obtaining or attempting to obtain records, information or Content for reasons or activities that are not directly related to the business of ELECT.
- xviii. Service must support multi-factor authentication for access to any administrative portal and/or any remote administrative interface.

xix. Supplier shall fully cooperate with commonwealth incident response resources and all required law enforcement personnel for assistance in the handling and reporting of security incidents.

xx. Supplier shall maintain an incident response program that implements incident handling for security incidents that includes preparation, detection and analysis, containment, eradication, and recovery processes.

xxi. Incident response must have the capability to support automated mechanisms for supporting incident handling processes.

xxii. Supplier ensures that all Content is removed or destroyed in accordance with and/or exceeding the requirements of the Commonwealth Data Removal standard located at the following URL.
<https://www.vita.virginia.gov/it-governance/itrm-policies-standards/>

xxiii. Supplier shall support physical security measures, including securing all Content on a secure server, in locked data cabinets within a secure facility located within the continental United States.

xxiv. Supplier shall ensure that access to facilities housing Content or supporting applications are restricted to only allow access to Supplier's personnel and agents who have a need to know in connection with operation and support of the Application and/or Licensed Services.

xxv. Supplier shall ensure that notification is sent to ELECT in writing thirty (30) days prior to its intention to replace or add any third-party that will be provided access to Content whether that access is provided by Supplier or Supplier's subcontractors. ELECT may reject any additional or new third parties who may be provided access to Content.

xxvii. Supplier shall ensure that the Application and/or Licensed Services operating systems, middleware, applications, and interfaces will be scanned for vulnerabilities every 30 days and scanning reports be provided to ELECT as required by Commonwealth security standards.

xxvii. Supplier shall cooperate with the Commonwealth to allow monthly vulnerability scans against all public-facing interfaces with access to Commonwealth data.

xxviii. Application and/or Licensed Services must have the capability to set affinity on tiered systems. Supplier ensures that no one hypervisor can host the application and the data storage.

xxix. Supplier shall ensure that all Content is stored, processed and maintained within the continental United States at all times.

xxx. Supplier shall report the geographic location of all Commonwealth data at all times if that Content is not stored in a Commonwealth facility. Supplier shall provide a report to confirm the designated region used by the hosting party of any Content not stored in a Commonwealth facility every 30 days.

xxxi. Supplier shall, at all times, remain compliant with the privacy and security requirements mandated by federal, state and local laws and regulations.

xxxii. Supplier shall ensure performance of an AICPA SOC-2 (Type 2) audit at least once annually of the Application's environment. Upon request from ELECT, Supplier shall provide a non-redacted copy of current AICPA SOC-2 (Type 2) audit. Supplier shall assist ELECT in obtaining the current AICPA SOC-2 (Type 2) audit report from any third-party providing services to Supplier, if said third-party services involve the processing or storage of any Content. The Trust Service Principles that should be covered in the SOC -2 Type 2 are: Security, Availability, Processing Integrity, Privacy and Confidentiality.

xxxiii. Supplier understands that ELECT or a third-party audit organization is responsible for performing a security audit within 90 days after contract award to determine control gaps between the supplied audit and the Hosted Environment Information Security Standard (SEC525). If no audit is supplied, a complete security controls audit utilizing SEC525 must be performed. Failure to do so may result in remedies being levied as provided in the terms and conditions of the Contract.

xxxiv. Supplier shall ensure that external connections incorporated into the Application and/or Licensed Services have appropriate security controls including industry standard intrusion detection and countermeasures that will detect and terminate any unauthorized activity prior to entering the firewall maintained by Supplier.

xxxv. Supplier shall ensure that the Application and/or Licensed Services will utilize industry standard firewalls regulating all data entering the internal data network from any external source which will

enforce secure connections between internal and external systems and will permit only authorized data to pass through.

xxxvi. Supplier shall ensure that the Application and/or Licensed Services will use industry standard encryption techniques to protect Content that is transmitted or stored on behalf of the Commonwealth. Supplier shall ensure that the Application will provide for the Commonwealth to maintain exclusive control of all encryption keying material.

xxxvii. Supplier shall ensure that they will apply all security updates to their systems as required by Commonwealth security standards. For third-party hosted systems, updates should be installed in compliance with SEC 525, "Hosted Environment Information Security Standard". This information is located under "Information Security Standards" at: <https://www.vita.virginia.gov/it-governance/itrm-policies-standards/>

xxxviii. Supplier shall ensure that they will utilize industry standard malware protection, incorporating both signature and non-signature-based detection mechanisms, on all systems with access to Content.

xil. Supplier shall ensure that malware protection will be centrally managed and receive regular automatic updates to malicious code protection mechanisms and data files from the software vendor.

xl. Within fifteen 30 calendar days after the expiration or termination of this Contract, Supplier shall confirm in writing to ELECT and VITA that all Content has been removed from all systems where the Content resided during performance of this Contract in a manner that complies with and/or exceeds SEC514, "Removal of Commonwealth Data from Electronic Media Standard". This standard is located at the following URL: <https://www.vita.virginia.gov/it-governance/itrm-policies-standards/>. The written confirmation shall include (a) sufficient detail describing the processes and procedures used in removing the Content, (b) information about the locations of where it was removed from within the Application and storage and other locations, and (c) the date the removals were performed. All metadata, in its original form, shall be returned to the respective ELECT.

xli. Regular training for Supplier Personnel regarding the security and data recovery programs referenced in this Section.

xlii. Regular testing of the systems and procedures outlined in this Section; and

xliii. Audit controls that record and monitor Application and Licensed Services activity continuously.

xliv. Should Supplier fail to perform in compliance with any provision of this Section, ELECT may provide Supplier with a written notice to cure. Supplier shall have 15 business days to cure its noncompliance, or with agreement from ELECT and VITA, in its governance role, may request a reasonable extension for time to cure providing ELECT, and a copy to VITA at: enterpriseservices@vita.virginia.gov, with a written plan of action to cure. If Supplier fails to cure, ELECT may deem Supplier in breach and/or default of the Contract and may immediately terminate the Contract, in whole or in part for breach, without any further right by the Supplier to cure.

15. PROPRIETARY RIGHTS

A. Supplier's Proprietary Rights

Except as otherwise stated herein, the Licensed Services (including without limitation, the Application and Updates, and Supplier Product, except to the extent that Supplier Product contains Content) and Documentation are the sole and exclusive property of Supplier and its licensors. All modifications, enhancements, Customizations, Updates, and translations of the Licensed Services shall be deemed a part thereof. For the avoidance of doubt, the terms "modifications, enhancements, Customizations, Updates and translations" as those terms are used in this Subsection A shall not include any Content.

B. ELECT Proprietary Rights

Supplier grants to the Commonwealth, ELECT and ELECTS's Application Users the license rights to the Application as set forth in Section 11 Description of Licensed Services of the Contract.

All right, title and interest in and to any Content relating to ELECT's or its Application Users' business shall remain the property of ELECT, whether or not supplied to Supplier or uploaded into the Application. Nothing in this Contract shall be construed as conveying any rights or interest in Content to Supplier. Upon termination of this Contract, Supplier agrees to either

provide the Content to ELECT, or, at ELECT's request, certify in writing that said Content in all formats, has been destroyed.

16. CLOUD ACCESS IN LIEU OF ESCROW AGREEMENT

In lieu of Cloud Services Escrow Agreements for the Application and Content, the Supplier agrees to the following access requirements.

- A. ELECT will set up a secured storage site within ELECT's Cloud environment. The Supplier will provide ELECT read-only access to the Supplier's cloud environment for the Application, including, but not limited to, source code, object code, and Content. The Supplier will provide instructions to, and will work with, ELECT to set-up a private, secure, one-directional transfer tunnel between Supplier and ELECT's Cloud environments. ELECT will push copies of the Application, including source code, object code, and Content from Supplier's Cloud environment to ELECT's Cloud environment on an agreed-upon frequency, including but not limited to when new versions of the source code are released.
- B. ELECT shall have the ability to immediately copy the Application and Content upon the happening of certain events, including, but not limited to, Supplier's failure to carry out its support and maintenance obligations imposed by this Contract for a period of sixty (60) days, Supplier's breach or default under this Contract, Supplier's bankruptcy, or Supplier's failure to continue to do business in the ordinary course. ELECT will also have the ability to copy the Content in the event ELECT's Content is destroyed, lost, or damaged or following the termination or expiration of ELECT's Licensed Services.
- C. Upon the happening of any of the events listed above resulting in ELECT copying the Application and Content, Supplier hereby grants to ELECT a royalty-free, perpetual, irrevocable license, that permits disclosure of a complete and accurate copy of then-current source code for the Application, along with all related documentation to a third-party support vendor, under contract with ELECT, and subject to a non-disclosure agreement, for the sole purpose of assisting ELECT to set up, operate, and maintain the Application.
- D. If Supplier fails to provide the access as described in this section, ELECT may exercise all available rights and remedies under law and equity. .

17. FEES, ORDERING, AND PAYMENT PROCEDURE

A. Fees and Charges

In consideration for the Supplier's performance obligations under this Contract, ELECT shall pay Supplier the fee(s) owed pursuant to the schedule of fees and charges as set forth on Exhibit B: Pricing, which lists any and all fees and charges, less any holdback amount as provided in this Contract. Supplier will only be entitled to those fees owed for Supplier's performance obligations and any additional Services or Licensed Services provided to ELECT in accordance with the scope of this Contract. The fees, and any associated discounts, will be applicable throughout the Contract Term unless modified pursuant to the terms and conditions below..

In the event the fees or discounts apply for any period less than the entire Contract Term, Supplier agrees that it will not request an increase in the fees during the first twelve (12) month period following the Effective Date and will not request an increase in the fees more than once in any subsequent twelve (12) month period thereafter. Beginning 12 months after the Effective Date, Supplier may request in writing an adjustment to the prices set forth in Exhibit B: Pricing to this Contract. No increase in fee amounts will exceed the lesser of three percent (3%) or the annual increase in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, Not Seasonally Adjusted, as published by the Bureau of Labor Statistics of the Department of Labor (<http://www.bls.gov/cpi/home.htm>) for the period ending 60 to 90 days prior to the effective date of the increase compared with the same index one (1) year prior. Supplier and ELECT will work in good faith to agree on an appropriate change in pricing. Supplier must submit any change in price in writing to ELECT if the change impacts this Contract and in accordance with the above and will not become effective for 60 calendar days thereafter.

B. Supplier Quote and Request for Quote

When additional needs are identified, ELECT will issue a Statement of Needs and Supplier shall provide a quote using the rates provided in Exhibit B: Pricing. Supplier shall not accept any Statement of Work from ELECT if it is to be funded, in whole or in part, by federal funds and if, at

the time, Supplier is not eligible to be the recipient of federal funds as may be noted on any of the Lists of Parties Excluded from Federal Procurement and Non-procurement Programs.

C. Ordering

Supplier shall accept any order placed by ELECT through the Commonwealth's electronic procurement website portal, eVA (<http://www.eva.virginia.gov/>). Agencies, as defined by Code § 2.2-2006, and legislative, judicial, and independent agencies of the Commonwealth, must order through eVA.

D. Statement of Work

Supplier shall describe the Services, Licensed Services, Deliverables and/or Solution to be delivered under this Contract in an applicable Statement of Work, at the rates set forth in Exhibit B, Pricing, to this Contract. The Supplier's initial Customization and implementation of an Application, and the delivery of access to that Application as part of the Licensed Services, is set forth in Exhibit C: Statement of Work.

All other SOWs will be of a fixed price type unless ELECT issues a written authorization for a time and materials type SOW. If a time and materials type SOW is authorized, Supplier Personnel shall maintain daily time records of hours and tasks performed that must be submitted or made available for inspection by ELECT upon forty-eight (48) hours advance written notice.

Any change to an SOW must be described in a written change request. Any change request shall be signed by both Parties before it becomes part of this Contract, as a written modification. In no event will any SOW or any modification require the Supplier to provide any Products or Services that are beyond the scope of this Contract as such scope is defined in Exhibit A, Requirements, which is attached to this Contract and incorporated by reference.

E. Invoice Procedures

Invoicing for the fulfillment of the requirements set forth in the Contract shall be in accordance with the agreed to pricing identified in Exhibit B: Pricing. Invoicing should be sent electronically to: Fiscal@elections.virginia.gov. Prior to Go-Live, ELECT will hold back the amount of 10% of any proper invoice received from Supplier (Retainage) when making payment on that invoice. Upon successful Go-Live, as indicated in Exhibit C: Statement of Work, ELECT will release 70% of the Retainage. ELECT will release 20% of the remaining Retainage subject to the resolution of problems reported to Supplier within the warranty period of the Contract. The remaining 10% of the Retainage will be released upon the successful completion of the first election event post Go Live. Payment for Licensed Services, as authorized in the Contract, will be invoiced monthly in arrears. No invoice may include any costs other than those identified in the Contract, and those costs must be in accordance with the schedule of fees listed on Exhibit B: Pricing. Supplier shall issue invoices that identify, at a minimum:

- i. Dates/periods that invoice covers, including any service or subscription periods, as applicable.
- ii. Line item description of the Deliverable(s) and Licensed Services, as applicable to this Contract, including any components or service type, and, if applicable, the project milestone.
- iii. Quantity, charge and extended pricing for each line item.
- iv. Application date of the order.
- v. This Contract number and the Purchase Order number.
- vi. Supplier's Federal Employer Identification Number ("FEIN").

Any terms included on Supplier's invoice will have no force or effect and will in no way bind ELECT.

F. Purchase Payment Terms

Supplier is responsible for the accuracy of its billing information. In the event Supplier repeatedly over-bills ELECT, ELECT may assess a one percent (1%) charge for the amount over-billed for each month that such over-billing continues.

Supplier may not issue invoices pursuant to this Contract until all of Supplier's performance obligations have been accepted and are in accordance with the milestone payment schedule in the applicable SOW, or until after services have been rendered. Charges for Deliverables,

Components or Services accepted more than 90 calendar days prior to receipt of a valid invoice may not be paid.

G. Reimbursement of Expenses

ELECT will only be liable to pay for Supplier's travel-related expenses, including transportation, meals, lodging and incidental expenses that have been authorized in writing by ELECT in advance. If authorized in advance as required, ELECT will pay, or reimburse Supplier, for all reasonable and actual travel-related expenses for greater than 30 miles from portal to portal incurred by Supplier during the relevant period.

The travel-related expenses will be reimbursable at the then-current per diem amounts as published by the Virginia Department of Accounts (<http://www.doa.virginia.gov/>).

All reimbursed expenses must be billed to ELECT on a pass-through basis without any markup by Supplier. Supplier shall provide copies of receipts for all travel expenses over US \$30.00.

Expenses for training as provided in §21 Training and Documentation, any SOW, and under Exhibit F: Supplier Maintenance and Support Plan are provided in Exhibit B: Pricing.

H. Disputed Amounts

If, before payment of an invoice, ELECT notifies the Supplier in writing of a disputed amount, ELECT will have the right to withhold payment of the disputed amount until the dispute is settled or finally resolved. Supplier shall respond in writing to ELECT's notification of a disputed amount acknowledging Supplier's receipt of the dispute within five (5) business days. Any amounts disputed by ELECT will be resolved (whether by credit or explanation of the charge to ELECT's satisfaction) in ELECT's required format within two (2) billing cycles (60 calendar days) following ELECT's written notification. In the absence of the Supplier's written evidence identifying the merit of the disputed amounts, ELECT will not be obligated to pay the disputed amounts and may consider the matter concerning the specific identified amounts closed. ELECT will not pay any disputed amounts that remain unresolved after 120 calendar days. If a disputed amount is reversed, Supplier shall reverse all associated surcharges, regulatory charges and taxes.

18. REPORTING

Supplier shall submit to ELECT monthly reports containing data on:

i. Small Business Procurement and Subcontracting Spend

These reports must be submitted in accordance with the instructions and further detailed requirements, and on the templates set forth on the "Supplier & Vendor Reporting Requirements" webpage located at the following URL: <https://www.vita.virginia.gov/procurement/supplier-reporting/supplier--vendor-reporting-requirements/>, or any successor URL(s). Supplier is encouraged to review the site periodically for updates on Supplier reporting requirements and methods. Supplier's failure to comply with all reporting, payment, and other requirements in this section may be deemed by ELECT, in its sole discretion, to be a breach of the Contract.

A. Small Business Procurement and Subcontracting Spend

Supplier shall provide to ELECT a report of monthly subcontracting spend data. This data must include Supplier's total spend to all Subcontractors who provide direct performance for obligations under this Contract. Supplier's monthly subcontracting spend data must be submitted to: Fiscal@elections.virginia.gov.

In addition, every six (6) months following the Effective Date, Supplier shall submit to ELECT a "SWaM Subcontracting Certification of Compliance" ("**SSCC**") certifying that Supplier has fully complied with the Contract's Supplier Procurement and Subcontracting Plan ("**Plan**"). A copy of Supplier's Plan is attached to this Contract as Exhibit H, and is incorporated by reference. The SSCC must include a written explanation of any variances of greater than 20% between the Plan and the actual subcontractor spend by Supplier. Supplier's SSCC will be maintained by ELECT in the Supplier's procurement file. Supplier must submit the SSCC to the following address: Fiscal@elections.virginia.gov. In the event that Supplier fails to comply with its contractually obligated Plan spend or fails to report its contractually obligated Plan spend, ELECT may, at its sole discretion, prohibit or delay any renewals or extensions of the Contract, withhold any final

payments due, or both. Supplier's failure to comply will be considered in the prospective award of any future contracts with Supplier.

19. SUPPLIER PERFORMANCE MEASURES

ELECT has developed a set of performance measures relating to Supplier's performance under this Contract and which are attached hereto and incorporated by reference as Exhibit J: Service Level Agreements. Supplier agrees to be bound by and perform its obligations under this Contract pursuant to these performance measures. Remedies for Supplier's failure to meet the performance measures are set forth in Exhibit J: Service Level Agreement.

Supplier and ELECT agree to meet within 30 calendar days of the Effective Date of this Contract to set forth the methodology and designated personnel of each Party to provide, collect, monitor, and report the performance measures data and mutually agreed-to incentives and remedies. Elect and Supplier will evaluate Supplier's performance against the performance measures in accordance with the Measurement Periods outlined in Exhibit J Service Level Agreements. Supplier agrees to provide to ELECT a compilation report of its performance against all the performance measures no less than once every twelve (12) months throughout the Contract Term. Supplier's report must include a comparison of its performance measures against the agreed-to targets and, in the event of any shortfall by Supplier, proposed remediation measures. Any instances of Supplier non-compliance will be recorded in Supplier's Contract file and shared with Contract stakeholders. Supplier further agrees that any degradation or failure of Supplier's performance obligations may result in failure to renew the Contract, termination for convenience of the Contract or termination for breach of the Contract. In addition to the specific service level credits provided in Exhibit J: Service Level Agreement, ELECT will have all rights and remedies available at law.

20. STEERING COMMITTEE

In order to facilitate mutually beneficial contractual relationships with suppliers, ELECT has procedures for establishing a steering committee ("**Steering Committee**"), consisting of senior management personnel, including personnel involved in the contractual relationship, from ELECT.

A Steering Committee for this Contract will be formed at ELECT's option. Meetings may be held at any time during the Contract Term, should ELECT, at its sole discretion, determine that a meeting(s) would be beneficial. Supplier may at any time submit a written request to ELECT for a meeting of the Steering Committee.

Supplier will ensure the availability of the appropriate personnel to meet with ELECT Steering Committee if requested by ELECT.

21. TRAINING AND DOCUMENTATION

A. Training

Supplier shall deliver to ELECT and Application Users a complete training program as provided in Exhibit C: SOW and Exhibit F: Supplier Maintenance and Support Plan.

B. Documentation

Supplier shall deliver to ELECT complete copies of any Documentation applicable to the Deliverable(s) provided to ELECT, in a quantity and media format as agreed upon by the Parties. Should Supplier revise or replace the Documentation, or should Documentation be modified to reflect Updates, Supplier shall deliver to ELECT copies of the updated or replacement Documentation, in the same quantity and media format as originally requested by ELECT, or as agreed upon between the Parties. ELECT will have the right, as part of any license grant, to make as many additional copies of the Documentation, in whole or in part, for its own use as required. This Documentation must include, but is not limited to, overview descriptions of all major functions, detailed step-by-step configuration and operating procedures for each screen and activity, and technical reference manuals. Such Documentation must be revised to reflect any modifications, fixes or updates made by Supplier. ELECT, at its own discretion, will have the right, as part of the license granted by Supplier, to modify or completely customize all or part of the Documentation in support of the authorized use of the licensed Application or Software. ELECT may also duplicate such Documentation and include it in ELECT's document or platform. ELECT shall continue to include Supplier's copyright notice.

22. COMPETITIVE PRICING

Supplier warrants that each of the prices, charges, economic or product terms, or warranties granted under this Contract are fair, reasonable, and commensurate with the price, charge, economic or product term or warranty being offered by Supplier to other government customers that purchase substantially similar services or products, at similar volumes, and under substantially similar terms and conditions. Supplier shall notify ELECT of any new services or products that become generally available to all government customers during the Contract Term. New products and services are subject to the commercial terms associated with those products and services and must be formally added to this Contract before they can be purchased. Supplier shall also offer ELECT commercially available national government products and services promotions and rates available at the time of purchase under the terms of those promotions.

23. CONFIDENTIALITY

A. Treatment and Protection

Each Party shall:

- i. hold in strict confidence all Confidential Information of any other Party;
- ii. use the Confidential Information solely to the extent necessary to perform its obligations under this Contract; and
- iii. not transfer, display, convey or otherwise disclose or make available all or any part of the other Party's Confidential Information to any third-party.

ELECT may, however, disclose the Confidential Information as delivered by Supplier to subcontractors, contractors, or agents of ELECT that are bound by non-disclosure agreements with ELECT. Each Party shall take the same measures to protect against the disclosure or misuse of the Confidential Information as it takes to protect its own proprietary or confidential information, but in no event will such measures be less than reasonable care.

B. Return or Destruction

Upon the termination or expiration of this Contract, or upon the earlier written request of ELECT, Supplier shall, at its own expense, and at the election of ELECT, either:

- i. promptly return all tangible Confidential Information (and all copies thereof except the record required by law) to ELECT; or
- ii. destroy any Confidential Information in Supplier's possession or control, and provide the disclosing ELECT with written certification of the destruction.

Additionally, Supplier shall cease all further use of ELECT's Confidential Information, whether in tangible or intangible form.

ELECT shall retain and dispose of Supplier's Confidential Information in accordance with the Commonwealth's records retention policies.

C. Confidentiality Statement

All Supplier Personnel performing Services pursuant to this Contract are required to sign a confidentiality statement or non-disclosure agreement. Any violation of the statement or agreement will be deemed a breach of this Contract and may result in termination of the Contract.

D. Freedom of Information Act Acknowledgement

All Supplier documents now or later comprising the Contract may be released in their entirety under the Virginia Freedom of Information Act, and Supplier agrees that any confidentiality or similar stamps or legends that are attached to any future documents or information may be ignored to the extent they claim confidentiality beyond that permitted by the Virginia Freedom of Information Act.

24. INDEMNIFICATION

A. Indemnification Generally

Supplier shall defend, indemnify, and hold harmless all Commonwealth Indemnified Parties from and against any third-party Claims to the extent the Claims in any way relate to, arise out of, or result from:

- i. any negligent act, negligent omission, or intentional or willful conduct of Supplier or any Supplier Personnel;
- ii. a breach of any representation, warranty, covenant, or obligation of Supplier contained in this Contract;
- iii. any defect in the Supplier-provided products or services;
- iv. any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Supplier-provided products or services;
- v. any Claims by any Subcontractor resulting from Supplier's failure to pay such Subcontractor; or
- vi. any Claim that would have been covered under insurance policies that the Supplier is required to maintain pursuant to the insurance sections of this Contract to the extent of the Supplier's failure to procure such required insurance.

B. Defense Claims

Supplier will be solely responsible for all costs and expenses associated with the defense of all third-party Claims against Commonwealth Indemnified Parties. Selection and approval of counsel, and approval of any settlement, shall be accomplished in accordance with all applicable laws, rules, and regulations. For state agencies, the applicable laws include §§ 2.2-510 and 2.2-514 of the Code.

C. Duty to Replace or Reimburse

In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Supplier-provided products or services, or Supplier's performance, Supplier shall, at its expense and option, either (a) procure the right to continue use of such infringing products or services, or any components thereof; or (b) replace or modify the infringing products or services, or any components thereof, with non-infringing products or services satisfactory to ELECT.

In the event that ELECT cannot use the affected Application, Deliverable, Licensed Services, or Services, including any Components, then Supplier shall reimburse ELECT for the reasonable costs incurred by ELECT in obtaining an alternative product or service.

D. Supplier Dispute of Obligation to Indemnify

If a Claim is commenced against any Commonwealth Indemnified Parties by a third party alleging an infringement of the third party's intellectual property rights and Supplier is of the opinion that the allegations in the third-party Claim, in whole or in part, are not covered by the indemnification provision in this Contract, then Supplier shall immediately notify ELECT of its opinion in writing and shall, nonetheless, take all reasonable steps to protect the rights, remedies, and interests of the Commonwealth Indemnified Parties in the defense of the Claim, including to secure a continuance to permit ELECT to appear and defend their interests in cooperation with Supplier as is appropriate, including any jurisdictional defenses ELECT may have.

25. LIABILITY

A. Supplier Liability

Supplier agrees that it is fully responsible for all acts and omissions of all Supplier Personnel, including their negligence or willful misconduct, under the Contract.

Supplier's liability and indemnification obligations under this Contract shall not exceed, in aggregate, twice the value of the Contract during the Contract Term, including renewals. For purposes of this Contract, "value of the Contract" means the cumulative spend under this Contract—including any renewals, orders, SOWs, or Change Orders thereto—by the Commonwealth.

The limitations on liability set forth in this section will not apply to liability arising from any combination of the following:

- i. any intentional or willful misconduct, fraud, or recklessness of Supplier or any Supplier Personnel; or
- ii. claims for bodily injury, including death, and damage to real property or tangible property resulting from the negligence of a Supplier or any Supplier Personnel.

Service level credits, as well as any other credits as expressed in Exhibit J: Service Level Agreement, will not limit or otherwise reduce (a) the foregoing Liability Cap or (b) any other rights or remedies that ELECT may have available to it under this Contract, including termination rights.

B. Limitation of Liability

Neither Party will be liable to the other Party for any indirect, incidental, consequential, or punitive damages, including (without limitation) loss of profit, income, or savings, even if advised of the possibility of these damages. The limitation set forth above will not apply to any of the following: (i) any negligence or intentional or willful misconduct or fraud of a Party; (ii) claims for bodily injury, including death, and real and tangible property damage; (iii) claims and losses that are the subject of indemnification obligations by Supplier under this Contract; (iv) damages and costs associated with the Supplier's obligations under the "Security Compliance" section of this Contract below; (v) damages attributable to Supplier's breach of its obligations with respect to Confidential Information; (vi) damages attributable to the improper or wrongful termination of this Contract or abandonment of the Services by the Supplier or the Supplier's refusal or failure to provide Transition Out Assistance as required by the is Contract or (vii) damages occasioned by Supplier's breach of its obligations under the Contract to comply with applicable laws.

26. INSURANCE

In addition to the insurance coverage required by law as referenced in the "Incorporated Contractual Provisions" section of this Contract below, Supplier shall carry:

- Errors and omissions insurance coverage in the amount of \$15,000,000 per occurrence; and
- Cyber Security Liability insurance coverage in the amount of \$15,000,000 per occurrence.

Supplier shall provide evidence of insurance and access to a copy of Suppliers policy documents upon reasonable request, by ELECT.

27. SECURITY COMPLIANCE

Supplier shall comply with all provisions of the then-current Commonwealth security policies, standards, and guidelines published by VITA and which may be found at: <https://www.vita.virginia.gov/policy--governance/itm-policies-standards/>, or any successor URL(s), as are pertinent to Supplier's operation. Further, Supplier shall comply with all applicable provisions of ELECT's then-current security procedures as are pertinent to Supplier's operation and that have been provided to Supplier by ELECT. Supplier shall also comply with all applicable federal, state, and local laws and regulations.

Any unauthorized release of any Confidential Information, or Commonwealth proprietary or personal information, by the Supplier or Supplier Personnel constitutes a breach of Supplier's obligations under the Contract. Supplier shall notify ELECT within 24 hours of discovery of, or when Supplier should have discovered, any breach of "unencrypted" and "unredacted" personal information, as those terms are defined in Code § 18.2-186.6, and other confidential or personal identifying information provided to the Supplier by ELECT. To the extent permitted by law, Supplier shall provide ELECT the opportunity to participate in the investigation of the breach and to exercise control over reporting the unauthorized disclosure.

Supplier shall ensure performance of an audit of Supplier's environment at least annually to provide assurance of "Controls Relevant to Security, Availability, Processing Integrity, Confidentiality or Privacy" in accordance with the then-current standards set forth by the American Institute of CPAs.

Supplier shall indemnify, defend, and hold the Commonwealth, ELECT, their officers, directors, employees and agents harmless from and against any and all Claims, including reasonable expenses suffered by, accrued against, or charged to or recoverable from the Commonwealth, ELECT, their officers, directors, agents or employees, on account of the failure of Supplier to perform its obligations pursuant this section.

ELECT reserves the right to review Supplier's information security program prior to the commencement of Licensed Services and at least once annually during the Contract Term. During the performance of the Licensed Services, and on an annual basis, ELECT will be entitled, at its own expense, to perform, or to have performed, an on-site audit of Supplier's information security program. In lieu of an on-site audit, upon request by ELECT, Supplier shall implement any reasonably required safeguards as identified by any program audit.

28. IMPORT/EXPORT

Supplier shall comply with all data export laws and regulations. In addition, ELECT policy requires that any data deemed “restricted” or “sensitive” by either federal or state authorities, may only be collected, developed, analyzed, or otherwise used or obtained by persons or entities working within the continental United States.

29. THIRD PARTY TERMS AND CONDITIONS

In the event that Supplier’s provision of the Licensed Services or any performance obligations under the Contract, include third-party terms and conditions, the Commonwealth security policies standards and guidelines referenced in this Contract above – i.e., SEC501 and SEC525 - will take precedence over any third party terms and conditions. For the purposes of statutory law as referenced and incorporated in this Contract, if there is any conflict with any third party terms, such statutory law will govern.

30. BANKRUPTCY

If Supplier becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than 15 business days, then ELECT may immediately terminate this Contract, on notice to Supplier unless Supplier immediately gives ELECT adequate assurance of the future performance of this Contract. If this Contract has not been otherwise terminated and bankruptcy proceedings are commenced with respect to Supplier, then ELECT may suspend all further performance of this Contract until Supplier assumes this Contract and provides adequate assurance of its performance of Supplier’s contractual obligations or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by ELECT and Supplier that this is an executory contract. Any suspension of further performance by ELECT pending Supplier’s assumption or rejection will not be a breach of this Contract and will not affect the rights of ELECT to pursue or enforce any of its rights under this Contract or otherwise.

31. GENERAL PROVISIONS

A. Relationship Between ELECT and Supplier

Supplier has no authority to contract for, bind or commit to any agreement of any kind, or to assume any liabilities of any nature in the name of or on behalf of ELECT. Under no circumstances will Supplier, or any Supplier Personnel, hold itself out as or be considered an agent or an employee of ELECT. Supplier represents and warrants that it is an independent contractor for purposes of federal, state, and local employment taxes, and agrees that neither ELECT is responsible to collect or withhold for Supplier any federal, state, or local employment taxes, including, but not limited to, income tax withholding and social security contributions. Supplier shall pay or withhold any and all taxes, interest or penalties (including, but not limited to, any federal, state, or local withholding or employment taxes, and any penalties related to health care or employee benefits laws) that are imposed, assessed, or levied as a result of this Contract or Services performed pursuant to this Contract. Supplier shall reimburse ELECT in the event that any taxes, interest or penalties are assessed against and paid by ELECT as a result of this Contract.

B. Licensing Within the Commonwealth

Any and all licenses granted or provided pursuant to this Contract will be held by:

- i. the Commonwealth, as ELECT is an Agency as defined by Code § 2.2-2006.

C. Incorporated Contractual Provisions

In addition to the terms, conditions and obligations of the Contract, Supplier agrees to the VITA Mandatory Contract Terms which consist of the VITA: Core Contractual Terms, Required eVA Terms and Conditions; and Mandatory Internal Revenue Service (IRS) Publication 1075 (required for FTI data only).

Each of these Mandatory Contract Terms are set forth at the following URL and incorporated into this Contract by reference: <https://www.vita.virginia.gov/procurement/contracts/mandatory-contract-terms/>.

Supplier agrees that non-compliance with the above-referenced Mandatory Contract Terms and IRS Publication 1075, including Exhibit 7 of IRS Publication 1075 which is attached to this contract as Exhibit D: Mandatory Internal Revenue Service (IRS) Publication 1075 and incorporated by reference, may be deemed, solely by ELECT, as a material breach of the Contract. Supplier is responsible for verifying the correct and current version of this IRS publication and related safeguarding terms language and acknowledges that ELECT will be held harmless. The terms and conditions set forth in documents posted at the URL above, and any successor URL(s), are subject to change pursuant to action by the legislature of the Commonwealth, change in ELECT policy, adoption of revised eVA business requirements, or change to IRS Publication 1075. If a change is made to any of the Mandatory Contract Terms documents, a new effective date will be noted in the applicable document title. Supplier is advised to check the URLs, or their successors, periodically.

D. Compliance with the Federal Lobbying Act

Supplier's signed certification of compliance with 31 U.S.C. § 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal Contracting and financial transactions") or by the regulations issued from time to time thereunder is incorporated as Exhibit G: Certification Regarding Lobbying to this Contract.

E. Ethics in Public Contracting

By signing this Contract, Supplier warrants that its assent to this Contract is made without collusion or fraud, and that Supplier has not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their proposal or the terms of this Contract. Further, Supplier warrants that it has not conferred any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, on any public employee having official responsibility for this procurement transaction, unless consideration of substantially equal or greater value was exchanged. In addition, Supplier warrants that it will notify ELECT if it becomes aware of a potential conflict of interest in the future.

F. Governing Law

Notwithstanding anything to the contrary in the more general language contained in the Governing Law provision of the Core Contractual Terms provided in Section 31 General Provisions, C. Incorporated Contractual Provisions, this Contract is governed by and will be construed in accordance with the laws of the Commonwealth of Virginia without regard to that body of law controlling choice of law. Any and all litigation relating to this Contract must be brought in the circuit courts of the Commonwealth of Virginia. The English language version of this Contract prevails when interpreting this Contract. The United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods are expressly disclaimed. The Uniform Computer Information Transactions Act applies to this Contract only to the extent required by Code § 59.1-501.15.

G. Dispute Resolution

In accordance with Code § 2.2-4363, contractual claims, whether for money or other relief, must be submitted in writing to the public body from whom the relief is sought no later than 60 calendar days after final payment; however, written notice of the Supplier's intention to file such claim must be given to such public body at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims will not delay payment of amounts agreed due in the final payment. The relevant public body shall render a final decision in writing within 30 calendar days after its receipt of the Supplier's written claim.

The Supplier may not invoke any available administrative procedure under the Code nor institute legal action prior to receipt of the decision of the relevant public body on the claim, unless that public body fails to render its decision within 30 calendar days. The decision of the relevant public body will be final and conclusive unless the Supplier, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Code § 2.2-4364 or the administrative procedure authorized by Code § 2.2-4365.

In the event of any breach by a Commonwealth ELECT, other than a material breach, Supplier's remedies will be limited to claims for damages and interest allowable under the Code and, if

available and warranted, equitable relief. All such claims to be processed pursuant to this Section.

H. Assignment

This Contract is binding upon and will inure to the benefit of the permitted successors and assigns of ELECT and Supplier. Supplier may not assign, subcontract, delegate or otherwise convey this Contract or any of its rights and obligations under this Contract, to any entity without the prior written consent of ELECT, and any attempted assignment or subcontracting without consent will be void. ELECT may assign this Contract to any entity, so long as the assignee agrees in writing to be bound by the all the terms and conditions of this Contract.

If any law limits the right of ELECT or Supplier to prohibit assignment or nonconsensual assignments, the effective date of the assignment will be 30 calendar days after the Supplier gives ELECT prompt written notice of the assignment, signed by authorized representatives of both the Supplier and the assignee. Any payments made prior to receipt of such notification will not be covered by this assignment.

I. Severability

Invalidity of any term of this Contract, in whole or in part, will not affect the validity of any other term. ELECT and Supplier further agree that in the event such provision is an essential part of this Contract, they shall immediately begin negotiations for a suitable replacement provision.

J. Survival

Any provisions of this Contract regarding Warranty, Cloud Access in Lieu of Escrow, Confidentiality, Content Privacy and Security, Liability, Indemnification, Transition of Services, and the General Provisions will survive the expiration or termination of this Contract.

K. Force Majeure

No Party will be responsible for the delay or failure to meet its obligations under this Contract if the delay or failure arises from causes beyond the reasonable control and without the fault or negligence of the obligated Party. If any performance date under this Contract is postponed or extended pursuant to this Section for longer than 30 calendar days, ELECT, by written notice given during the postponement or extension, may terminate Supplier's right to render further performance after the effective date of termination without liability for that termination, and in addition ELECT may terminate any order affected by such postponement or delay.

L. No Waiver

Any failure to enforce any terms of this Contract will not constitute a waiver.

M. Remedies

The remedies set forth in this Contract are intended to be cumulative. In addition to any specific remedy, ELECT reserve any and all other remedies that may be available at law or in equity.

N. Records and Right to Audit

In order to support charges invoiced to ELECT, Supplier shall maintain accurate records and other evidence pertaining to the costs and expenses for all Licensed Services performed or delivered under this Contract. The records will be to the extent and in sufficient detail to properly reflect all direct and indirect costs associated with this Contract. In addition, Supplier shall maintain accurate records of the Licensed Services including, but not limited to, the "Uptime" and "Excusable Downtime" as set forth in the Section 10: Service Levels and Remedies, and Reporting for Cloud Services of this document.

ELECT will have the right, at any reasonable time during regular business hours after giving reasonable advance notice, to inspect and audit the records applicable this Contract. Supplier shall preserve such records for three (3) years after termination or completion of the Licensed Services agreed to under this Contract. ELECT's right to audit is limited as follows:

- i. it shall apply no longer than three (3) years from end date of the Contract;
- ii. it shall be at ELECT's expense;
- iii. it shall be at ELECT's option, performed either at Supplier's premises during normal business hours at mutually agreed upon times, or via electronic records access, or via a combination of the two; and
- iv. access to Supplier cost information is excluded.

In no event will Supplier have the right to audit ELECT or require ELECT to be audited.

O. Taxes

The Commonwealth is exempt from Federal excise and all State and Local taxes and any such taxes may not be included in Contract prices. Tax certificates of exemption, Form ST-12 can be obtained from ELECT upon request. Deliveries against this Contract shall be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

P. Currency

All prices, costs, or fees in this Contract and all exhibits will be in United States dollars.

Q. Advertising and Use of Proprietary Marks

No Party may use the name of the other Party or refer to the other Party, directly or indirectly, in any press release or formal advertisement without receiving prior written consent of the other Party. In no event may any Party use a proprietary mark of the other Party without receiving the prior written consent of the other Party.

R. Notices

Any notice required or permitted to be given under this Contract must be in writing and will be deemed to have been sufficiently given if delivered in person, or if deposited in the U.S. mails, postage prepaid, for mailing by registered, certified mail, or overnight courier service addressed:

i. To ELECT and to Supplier, if Supplier is incorporated or formed pursuant to the laws of the Commonwealth, to the addresses shown on the signature page.

ii. To Supplier, if Supplier is incorporated or formed outside the Commonwealth, to the address shown on the signature page and to the Registered Agent registered with the Virginia State Corporation Commission.

Pursuant to Title 13.1 of the Code, ELECT or Supplier may change its address for notice purposes by giving the other Party notice of such change in accordance with this Section.

Administrative contract renewals, modifications or non-claim related notices are excluded from the above requirement. Such written, or signed, or both, contract administration actions may be processed by the assigned ELECT and Supplier points of contact for this Contract and may be given in person, via U.S. mail, courier service or electronically.

S. Offers of Employment

During the first twelve (12) months of the Contract, should Supplier hire an employee of ELECT who has substantially worked on any project covered by this Contract without prior written consent, the Supplier will be billed for 50% of the employee's annual salary in effect at the time of termination.

T. Contract Administration

Supplier agrees that at all times during the Contract Term an account executive, at Supplier's senior management level, will be assigned and available to ELECT. Supplier reserves the right to change such account executive upon reasonable advance written notice to ELECT.

U. Captions

The captions of sections and subsections of this Contract are for convenience and in no way define, limit, or enlarge the scope of this Contract or any of its sections.

V. Entire Contract

The following exhibits, including all subparts thereof, are attached to this Contract and are made a part of this Contract for all purposes:

Exhibit A – Requirements

Exhibit B – Pricing

Exhibit C – Statement of Work

Exhibit D – Mandatory Internal Revenue Service (IRS) Publication 1075

Exhibit E – [Intentionally Omitted]

Exhibit F – Supplier Maintenance and Support Plan

Exhibit G – Certification Regarding Lobbying

Exhibit H – Supplier Procurement and Subcontracting Plan

Exhibit I – [Intentionally Omitted]

Exhibit J – Service Level Agreement

This Contract, its exhibits, and any prior non-disclosure agreement constitute the entire agreement between ELECT and Supplier and supersede any and all previous representations, understandings, discussions or agreements between ELECT and Supplier as to the subject matter of this Contract. Any and all terms and conditions contained in, incorporated into, or referenced by the Supplier's proposal are deemed invalid. The provisions of the Virginia Department of General Services, Division of Purchases and Supply Vendor's Manual will not apply to this Contract or any order issued pursuant to the Contract. This Contract may only be amended by an instrument in writing signed by ELECT and Supplier.

W. Order of Precedence

In the event of a conflict, the following order of precedence shall apply: this Contract document, Exhibit J: Service Level Agreement, Exhibit A: Requirements, Exhibit B: Pricing, Exhibit C: SOW, then each remaining Exhibit in order of Exhibit letter, then any Order under the Contract. In the event of a conflict or inconsistency between the negotiated terms of this Contract and any provision incorporated by reference into the Contract (e.g., a section of a License Agreement), the negotiated terms of this Contract will take precedence. For purposes of this section, a "conflict" exists with respect to a subject that has been comprehensively addressed in the Contract when supplementary terms contained in a provision incorporated by reference would alter the rights and obligations of the Parties set forth in the Contract.

X. Counterparts and Electronic Signatures

This Contract may be executed in multiple counterparts, each of which, when assembled to include an original signature for each of Supplier and ELECT, will constitute a complete and fully executed original. All fully executed original counterparts will collectively constitute a single agreement. Signatures transmitted by fax or electronic mail (in portable data format ("PDF")) are also permitted as binding signatures to this Contract.

Y. Opportunity to Review

ELECT and Supplier each acknowledge that it has had the opportunity to review this Contract and to obtain appropriate legal review if it so chose.

[SIGNATURE PAGE(S) TO FOLLOW]

Signed by the undersigned authorized representatives of ELECT and Supplier and effective as of the Effective Date set forth in the preamble of this Contract above.

**The Canton Group
SUPPLIER**

**The Virginia Department of Elections
ELECT**

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print)

Name: _____
(Print)

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notice:

Address for Notice:

Attention: Supplier Contact

Attention: Contract Administrator
